

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

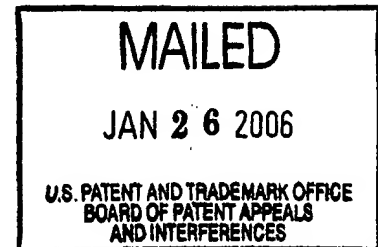
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID M. SIEFERT

Appeal No. 2005-0985
Application No. 09/003,000

ON BRIEF



Before GROSS, BLANKENSHIP, and SAADAT, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 16, 17, and 19-22, which are all the claims remaining in the application.

We affirm.

BACKGROUND

The invention is directed to a method for presenting material to a learner, whereby profiles of learners are stored to enhance learning by selecting a preferred presentation of the material. Representative claim 16 is reproduced below.

16. A method of presenting material on a same topic to a learner, comprising:

(a) storing on one or more computers a plurality of materials including a collection of alternate presentations, each covering the same topic;

(b) providing a communications link to the materials, via a data channel, with a communicator of the learner;

(c) storing profiles of learners, which contain information about characteristics of each learner including information about each learner's curriculum, teaching strategies, present standing and personalized information;

(d) selecting a preferred presentation from the collection of alternate presentations based on the learner's profile; and

(e) making the selected presentation to the learner.

The examiner relies on the following reference:

Lee et al. (Lee)

WO 93/16454

Aug. 19, 1993

Claims 16, 17, 19, 20, and 22 stand rejected under 35 U.S.C. § 102 as being anticipated by Lee.

Claim 21 stands rejected under 35 U.S.C. § 103 as being unpatentable over Lee.

We refer to the Final Rejection (mailed Nov. 19, 2002) and the Examiner's Answer (mailed Oct. 1, 2004) for a statement of the examiner's position and to the Brief

(filed Jul. 9, 2004) for appellant's position with respect to the claims which stand rejected.

OPINION

Lee is directed to an interactive computer aided "natural" learning method and apparatus. Appellant argues, however, that Lee does not teach or suggest storing profiles of learners, "which contain information about characteristics of each learner including information about each learner's curriculum, teaching strategies, present standing and personalized information," and using the profile to select and make a presentation to the learner as claimed. (Brief at 6.)

The examiner points out, by page, line, and direct quotation, where Lee is deemed to disclose each feature of claims 16, 17, 19, 20, and 22. (Answer at 3-4.) Appellant's remarks in the Brief do not persuade us of error in the examiner's finding of anticipation.

Appellant submits that "nowhere are teaching strategies described in Lee." (Brief at 7.) Appellant acknowledges the examiner's finding that Lee's disclosure of "how much and what type of material each student can access" is a disclosure of "teaching strategies," but argues that such an assertion could only be with "hindsight." (Id.)

For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference. However, this is not an "ipsissimis verbis" test. In re Bond, 910 F.2d 831, 832, 15 USPQ2d 1566,

1567 (Fed. Cir. 1990). The fact that Lee may not describe the invention in the same terms as used in the instant claims is not determinative. Further, to the extent appellant's position may be based on the view that the claims are limited to the details of the representative embodiments, we remind appellant that claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550 (CCPA 1969).

Moreover, the claims contain an additional level of abstraction that seems not to be appreciated by appellant. For example, in remarks concerning instant claim 17, appellant argues (Brief at 8) that the cited portions of Lee "merely describe homework assignments, which are not a learner's curriculum." Claim 17, however, and base claim 16, recite "information about each learner's curriculum" (emphasis added), rather than requiring a "learner's curriculum." We agree with the examiner that the artisan would consider homework assignments to comprise information about a curriculum. For example, a homework assignment in organic chemistry would be suggestive of a natural science curriculum, and not suggestive of a political science curriculum, thus conveying information about the learner's curriculum.

We thus sustain the rejection of claims 16, 17, 19, 20, and 22 under 35 U.S.C. § 102. We also sustain the rejection of claim 21 under 35 U.S.C. § 103 over Lee. We agree with the examiner that a message from the student's to the teacher's workstation indicating which material the student is having problems with (Lee, ¶ bridging pages 12 and 13) is personalized information that includes "information about difficulties in teaching the learner," within the meaning of the claim. The message is personalized with respect to the student, and conveys information about difficulties in teaching the learner by identifying the material that is difficult for the student.

CONCLUSION

The rejection of claims 16, 17, 19, 20, and 22 under 35 U.S.C. § 102 and the rejection of claim 21 under 35 U.S.C. § 103 are affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a). See 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

Annie Pellman Gross

ANITA PELLMAN GROSS
Administrative Patent Judge

Howard B. Blankenship

HOWARD B. BLANKENSHIP
Administrative Patent Judge

Marshall D. Sadat

MAHSHID D. SAADAT
Administrative Patent Judge

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JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON, OH 45479